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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
Federal Communications Commission
 Washington, D.C. 20554

In the Matter of)	
)	
Communications Assistance for Law Enforcement)	CC Docket No. 97-213
Act: Department of Justice and Federal Bureau of)	
Investigation Petition for Reconsideration)	

UNITED STATES TELEPHONE ASSOCIATION
OPPOSITION TO PETITION FOR RECONSIDERATION

The United States Telephone Association (USTA) respectfully submits its opposition to the petition for reconsideration filed by the Department of Justice and the Federal Bureau of Investigation (DOJ/FBI) in the above-referenced proceeding. USTA is the principal trade association of the local exchange carrier (LEC) industry. Its members provide over 95 percent of the incumbent LEC-provided access lines in the U.S. USTA's member companies are subject to the requirements of the Communications Assistance for Law Enforcement Act (CALEA).

On March 30, 1999, the DOJ/FBI filed a petition for reconsideration of an order released March 2, 1999 by the Office of Engineering and Technology (OET) granting the requests of five telecommunications equipment manufacturers for confidential treatment of cost data submitted in this proceeding. In the alternative, the DOJ/FBI suggest that they be permitted access to the data under a protective order, that the DOJ/FBI be permitted to present its own cost information to the Commission and that the Commission publicly disclose the assumptions that form the basis of the cost information. USTA opposes the petition and urges the Commission to dismiss it.

This petition is moot. First, the record before the Commission overwhelmingly agrees that the statute requires the Commission to consider cost data in determining how the assistance capability requirements of Section 103 are met and in establishing new technical standards under Section 107. Second, on May 7, 1999, the OET publicly released the revenue estimates supplied by the five manufacturers in aggregate form and requested comment on them. Thus, the DOJ/FBI and all interested parties were provided an opportunity to see the aggregate estimates and to provide comments. Every party, except the DOJ/FBI, agreed that the statute required the Commission to consider costs when determining whether new technical standards must be developed. There is no question but that the data provided by the five manufacturers is relevant and that the Commission is required to utilize all cost data submitted by parties in addressing the deficiency petition filed by the DOJ/FBI. The record also clearly demonstrates that the revenue estimates are conservative and represent only a portion of the costs which carriers will incur if the punchlist items are adopted by the Commission and are included in the J-STD-025.

Further, the petition is disingenuous. The DOJ/FBI have withheld cost data from the Commission because of proprietary treatment. The DOJ/FBI's refusal to provide cost data and its continuing, albeit erroneous, arguments that cost data are irrelevant reveal the DOJ/FBI's intention to prevent the Commission from obtaining this information because the data demonstrate that the costs of CALEA implementation are staggering. This simple fact undermines the DOJ/FBI's deficiency petition and should prevent the Commission from adopting the punchlist items requested by the DOJ/FBI.


Regarding the alternative suggestions included in the petition, USTA would not oppose the protective order so long as it applied to all parties, not just the DOJ/FBI. USTA has written to the Attorney General requesting that she provide cost information to the Commission. Thus

far, the DOJ/FBI has refused to do so. If the DOJ/FBI agree to provide this information to the Commission, it must be placed on the public record and all parties must have an opportunity to comment on it. Finally, USTA would welcome any additional information regarding cost estimates which either the Commission or the DOJ/FBI place on the public record.

Based on the forgoing, USTA urges the Commission to dismiss the petition.

Respectfully submitted,

UNITED STATES TELEPHONE ASSOCIATION

By: 

Its Attorneys:

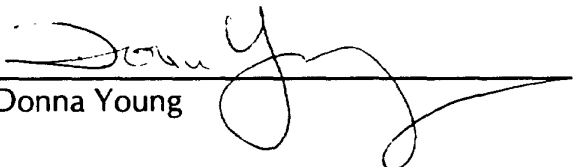
Lawrence E. Sarjeant
Linda L. Kent
Keith Townsend
John W. Hunter
Julie E. Rones

1401 H Street, NW, Suite 600
Washington, D.C. 20554
(202) 326-7248

June 23, 1999

CERTIFICATE OF SERVICE

I, Donna Young, do certify that on June 23, 1999, copies of the accompanying Opposition to Petition for Reconsideration of the United States Telephone Association were either hand-delivered, or deposited in the U.S. Mail, first-class, postage prepaid to the persons on the attached service list.


Donna Young

Rozanne R. Worrell
U.S. Department of Justice
Federal Bureau of Investigation
Telecommunications Industry Liaison Unit
P.O. Box 220450
Chantilly, VA 20153

Michael Altschul
Randall S. Coleman
Cellular Telecommunications Industry Assn.
1250 Connecticut Avenue, NW
Suite 200
Washington, DC 20036

Roseanna DeMaria
AT&T Wireless Services
32 Avenue of the Americas - Room 1731
New York, NY 10013

Stanton McCandlis
Electronic Frontier Foundation
1550 Bryant Street - Suite 725
San Francisco, CA 94103

Stewart A. Baker
Thomas M. Barba
Brent H. Weingardt
L. Benjamin Ederington
Steptoe & Johnson LLP
1330 Connecticut Avenue, NW
Washington, DC 20036

Richard McKenna, **HQE03J36**
GTE
P.O. Box 152092
Irving, TX 75015

Andre J. Lachance
GTE
1850 M Street, NW
Suite 1200
Washington, DC 20036

John T. Scott, III
Crowell & Moring LLP
1001 Pennsylvania Avenue, NW
Washington, DC 20004

Mark C. Rosenblum
Ava B. Kleinman
Seth S. Gross
AT&T
295 North Maple Avenue - Room 3252J1
Basking Ridge, NJ 07920

Jerry Berman
Daniel J. Weitzner
James X. Dempsey
Center for Democracy and Technology
1634 Eye Street, NW
Washington, DC 20006

Andy Oram
Computer Professionals for Social Responsibility
P.O. Box 717
Palo Alto, CA 94302

Matthew J. Flanigan
Grant Seiffert
Telecommunications Industry Assn.
1201 Pennsylvania Avenue, NW
Suite 315
Washington, DC 20004

Gail L. Polivy
GTE
1850 M Street, NW
Suite 1200
Washington, DC 20036

James D. Ellis
Robert M. Lynch
Durward D. Dupre
SBC
175 E. Houston - Room 1258
San Antonio, TX 78205

Kathryn Marie Krause
Edward M. Chavez
U S WEST, Inc.
1020-19th Street, NW
Suite 700
Washington, DC 20036

Dan L. Poole
U S WEST
1020-19th Street, NW
Suite 700
Washington, DC 20036

John H. Harwood II
Samir Jain
Wilmer, Cutler & Pickering
2445 M Street, NW
Washington, DC 20037

Kevin C. Gallagher
360° Communications Co.
8725 W. Higgins Road
Chicago, IL 60631

Joseph R. Assenzo
Sprint Spectrum LP
4900 Main Street
12th Floor
Kansas City, MO 64112

Emilio W. Cividanes
Piper & Marbury, LLP
1200-19th Street, NW
Washington, DC 20036

David Cosson
L. Marie Guillory
NTCA
2626 Pennsylvania Avenue, NW
Washington, DC 20037

James T. Roche
GlobeCast
400 North Capitol Street, NW
Suite 177
Washington, DC 20001

Barbara J. Kern
Ameritech Corp.
2000 West Ameritech Center Drive
Room 4H74
Hoffman Estates, IL 60196

Kathleen Q. Abernathy
David A. Gross
Donna L. Bethea
AirTouch Communications, Inc.
1818 N Street, NW
Washington, DC 20036

Judith St. Ledger-Roty
Paul G. Madison
Kelley Drye & Warren, LLP
1200-19th Street, NW
Fifth Floor
Washington, DC 20036

Barry Steinhardt
A. Cassidy Sehgal
American Civil Liberties Union
125 Broad Street
18th Floor
New York, NY 10004

Electronic Privacy Information Center
666 Pennsylvania Avenue, SE
Suite 301
Washington, DC 20003

Electronic Frontier Foundation
1550 Bryant Street
Suite 725
San Francisco, CA 94103

Alan R. Shark
American Mobile Telecommunications Assn., Inc.
1150-18th Street, NW
Suite 250
Washington, DC 20036

Elizabeth R. Sachs
Lukas, McGowan, Nace & Gutierrez
1111-19th Street, NW
Suite 1200
Washington, DC 20036

William L. Roughton, Jr.
PrimeCo Personal Communications, LP
601-13th Street, NW
Suite 320 South
Washington, DC 20005

Carole C. Harris
Christine M. Gill
Anne L. Fruehauf
McDermott, Will & Emery
600-13th Street, NW
Washington, DC 20005

Michael K. Kurtis
Jeanne W. Stockman
Kurtis & Associates, PC
2000 M Street, NW
Suite 600
Washington, DC 20036

Peter M. Connolly
Koteen & Naftalin
1150 Connecticut Avenue, NW
Washington, DC 20036

Robert S. Foosaner
Lawrence R. Krevor
Laura L. Holloway
Nextel Communications, Inc.
1450 G Street, NW
Suite 425
Washington, DC 20005

Stuart Polikoff
Lisa M. Zaina
OPASTCO
21 Dupont Circle, NW
Suite 700
Washington, DC 20036

M. Robert Sutherland
Theodore R. Kingsley
BellSouth
1155 Peachtree Street, NW
Atlanta, GA 30309

J. Lloyd Nault, II
BellSouth
4300 BellSouth Center
675 West Peachtree Street, NE
Atlanta, GA 30375

Michael P. Goggin
BellSouth
1100 Peachtree Street, NE
Suite 910
Atlanta, GA 30309

Eric W. DeSilva
Stephen J. Rosen
Wiley, Rein & Fielding
1776 K Street, NW
Washington, DC 20006

Mark J. Golden
Mary E. Madigan
Personal Communications Industry Assn.
500 Montgomery Street
Suite 700
Alexandria, VA 22314

Rich Barth
Mary Brooner
Motorola, Inc.
1350 Eye Street, NW
Suite 400
Washington, DC 20005

Caressa D. Bennet
Dorothy E. Cukier
Bennet & Bennet, PLLC
1019-19th Street, NW
Suite 500
Washington, DC 20036

David L. Nace
B. Lynn F. Ratnavale
Lukas, Nace, Gutierrez & Sachs Chtd.
1111-19th Street, NW
Suite 1200
Washington, DC 20036

Kevin C. Gallagher
360° Communications Co.
8725 W. Higgins Road
Chicago, IL 60631

Pamela J. Riley
David A. Gross
AirTouch Communications, Inc.
1818 N Street, NW
Suite 320 South
Washington, DC 20036

James F. Ireland
Cole, Raywid & Braverman, LLP
1919 Pennsylvania Avenue, NW
Suite 200
Washington, DC 20006

Peter M. Connolly
Koteen & Naftalin
1150 Connecticut Avenue, NW
Washington, DC 20036

James X. Dempsey
Daniel H. Weitzner
Center for Democracy and Technology
1634 Eye Street, NW - Suite 1100
Washington, DC 20006

Teresa Marrero
Teleport Communications Group, Inc.
Two Teleport Drive
Staten Island, NY 10311

John T. Scott, III
Crowell & Moring, LLP
1001 Pennsylvania Avenue, NW
Washington, DC 20004

William L. Roughton, Jr.
PrimeCo Personal Communications, LP
601-13th Street, NW
Suite 320 South
Washington, DC 20005

Michael W. Mowery
AirTouch Communications, Inc.
2999 Oak Road, MS1025
Walnut Creek, CA 95596

Lisa M. Zaina
Stuart Polikoff
OPASTCO
21 Dupont Circle, NW
Suite 700
Washington, DC 20036

Susan W. Smith
CenturyTel Wireless, Inc.
3505 Summerhill Road
No. 4 Summer Place
Texarkana, TX 75501

Martin L. Stern
Lisa A. Leventhal
Preston Gates Ellis & Rouvelas Meeds LLP
1735 New York Avenue, NW
Suite 500
Washington, DC 20006

David L. Sobel
Electronic Privacy Information Center
666 Pennsylvania Avenue, SE
Suite 300
Washington, DC 20003

Steven Shapiro
American Civil Liberties Union
125 Broad Street
New York, NY 10004

Barry Steinhardt
Electronic Frontier Foundation
1550 Bryant Street
Suite 725
San Francisco, CA 94103

Kurt A. Wimmer
Gerard J. Waldron
Alane C. Weixel
Covington & Burling
1201 Pennsylvania Avenue, NW
P.O. Box 7566
Washington, DC 20044

Judith St. Ledger-Roty
Paul G. Madison
Kelley Drye & Warren, LLP
1200-19th Street, NW
Suite 500
Washington, DC 20036

Joseph R. Assenzo
Sprint Spectrum LP d/b/a/ Sprint PCS
4900 Main Street
12th Floor
Kansas City, MO 64112

Jill F. Dorsey
Powertel, Inc.
1233 O.G. Skinner Drive
West Point, GA 31833

Frank S. Froncek
Northern Telecom Inc.
4001 East Chapel Hill-Nelson Highway
Research Triangle Park, NC 27709

Stephen L. Goodman
William F. Maher, Jr.
Halprin, Temple, Goodman & Sugrue
1100 New York Avenue, NW
Suite 650 - East Tower
Washington, DC 20005

L. Marie Guillory
Jill Canfield
National Telephone Cooperative Assn.
2626 Pennsylvania Avenue, NW
Washington, DC 20037

Richard J. Metzger
Emily M. Williams
Association for Local Telecommunications Services
888-17th Street, NW
Suite 900
Washington, DC 20006

Jonathan M. Chambers
Vice President, Sprint PCS
1801 K Street, NW
Suite M112
Washington, DC 20006

Mary McDermott
Mary Madigan Jones
Todd B. Lantor
PCIA
500 Montgomery Street
Suite 600
Alexandria, VA 22314

John M. Goodman
Attorney for Bell Atlantic
1300 I Street, NW
Washington, DC 20005

M. Robert Sutherland
Theodore R. Kingsley
BellSouth Corp
Suite 1700 - 1155 Peachtree St, NE
Atlanta, GA 30309-3610

Kendall Butterworth
BellSouth Cellular Corp
Suite 910 - 1100 Peachtree St, NE
Atlanta, GA 30309-4599

Thomas M. Meiss
BellSouth Personal Communications
1100 Peachtree Street, NE
Suite 910
Atlanta, GA 30309

Michael W. White
BellSouth Wireless Data
10 Woodbridge Center Drive
4th Floor
Woodbridge, NJ 07095-1106

Robert M. Lynch
Roger K. Toppins
Hope Thurrott
SBC
One Bell Plaza Room 3023
Dallas, TX 75202

Louis J.. Freeh, Director
Larry R. Parkinson, General Counsel
Federal Bureau of Investigation
935 Pennsylvania Ave, NW
Washington, DC 20535

The Honorable Janet Reno Attorney General of the U.S.
Donald Remy, Deputy Assistant Attorney General
Douglas N. Letter, Appellate Litigation Counsel
Civil Division
US Dept of Justice
601 D Street, NW, Room 9106
Washington, DC 20530